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**PUBLIC NOTICE NO. MT-15-05  
February 17, 2015****LEGISLATIVE ENVIRONMENTAL  
POLICY OFFICE**PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to state the Department's intention to issue a General Permit as described in this notice and to hold a public hearing on the issuance of this permit. This permit is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA); the Administrative Rules of Montana (ARM) 17.30.1301 *et seq.*, Montana Pollutant Discharge Elimination System (MPDES); and Sections 402 and 303 of the Federal Clean Water Act. The Water Protection Bureau has prepared a draft permit for the facility listed below. Copies of the draft permit, fact sheet and environmental assessment are available upon request from the Water Protection Bureau or on the Department's website [www.deq.mt.gov](http://www.deq.mt.gov).

APPLICANT INFORMATION

PERMIT/CATEGORY:      Suction Dredge General Permit (SDGP)

GEOGRAPHIC REGION:    Statewide

FACILITIES:             Portable Recreational Suction Dredge Operations

RECEIVING WATERS:    State Surface Water

PERMIT NUMBER:        MTG370000

The SDGP allows portable recreational suction dredge operations that meet effluent limitations and other conditions specified in the permit to discharge to state waters. This General Permit is applicable to portable recreational suction dredge operations with an intake diameter size of four (4) inches or less. The discharge from suction dredges permitted under the SDGP consists only of stream water and bed material; no chemicals may be added as part of the suction dredging process. Oil and grease and fuel are also potential pollutants if the operating dredge has leaking seals or if fuel is spilled during refilling.

The SDGP prohibits the suction dredge owner/operator from causing a visible increase in turbidity at the end of the mixing zone, causing a visible oil film, or adding any chemicals to the operation. In addition, the SDGP includes Best Management Practices that are designed to protect the integrity of the stream and stream bank.

PUBLIC COMMENT

Public comments are invited ANYTIME PRIOR TO CLOSE OF BUSINESS March 30,

Steve Bullock, Governor | Tom Livers, Director | P.O. Box 200901 | Helena, MT 59620-0901 | (406) 444-2544 | [www.deq.mt.gov](http://www.deq.mt.gov)

**2015.** Comments may be directed to the DEQ Permitting & Compliance Division, Water Protection Bureau, P.O. Box 200901, Helena, MT 59620. All comments received or postmarked **PRIOR TO CLOSE OF BUSINESS March 30, 2015** will be considered in the formulation of final determinations to be imposed on the permits. If you wish to comment electronically, you may e-mail DEQ at [DEQWPBPublicComments@mt.gov](mailto:DEQWPBPublicComments@mt.gov)

**A public hearing will be held on the draft general permit, fact sheet, environmental assessment, and DEQ's tentative determination on March 23, 2015 from 10:00 - 11:30 a.m. in DEQ's Lee Metcalf Building, Room 111 at 1520 E. Sixth Ave, Helena, MT.**

The State of Montana makes reasonable accommodations for any known disability that may interfere with a person's ability to participate in state government. Persons needing an accommodation must notify John Wadhams no later than March 15, 2015, to allow adequate time to make needed arrangements. You can call John at 444-2783 or write to the address noted to make your request known.

DEQ will respond to all substantive comments and issue a final decision within sixty days of this notice or as soon as possible thereafter. Additional information may be obtained upon request by calling (406) 444-3080 or by writing to the aforementioned address. The complete administrative record, including permit application and other pertinent information, is maintained at the Water Protection Bureau office in Helena and is available for review during business hours.

**PUBLIC NOTICE NO. MT-15-05**  
**February 17, 2015**

# DRAFT

## MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

### GENERAL PERMIT

For

### PORTABLE SUCTION DREDGING

Permit No.: MTG370000

### AUTHORIZATION TO DISCHARGE UNDER THE MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA), and the federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. 1251 *et. seq.*, applicants issued a confirmation letter for this Portable Suction Dredging General Permit, are permitted to discharge wastewater to state waters in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

A copy of this General Permit and a written confirmation letter from the Department must be kept on site at all times. The General Permit is not valid without a current confirmation letter from the Department.

This permit shall become effective: **{on the date of issuance}**

This permit and the authorization to discharge shall expire at midnight, **{5 years after issuance}**.

FOR THE MONTANA DEPARTMENT  
OF ENVIRONMENTAL QUALITY

DRAFT

\_\_\_\_\_  
Jon Kenning, Chief  
Water Quality Bureau  
Permitting and Compliance Division

Issuance Date: \_\_\_\_\_



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I. COVERAGE UNDER THIS GENERAL PERMIT

A. Coverage Area

The General Permit applies to all areas of the State of Montana, except Indian Reservations.

B. Sources Covered Under the General Permit

The General Permit applies to portable recreational suction dredge operations that discharge into waters of the state. A portable suction dredge operated under the General Permit must have an intake diameter size of four (4) inches or less. Other suction dredge operations, such as commercial operations, or suction dredges with intake sizes greater than 4 inches in diameter, are not covered under the General Permit. These applicants must apply for an individual Montana Pollutant Discharge Elimination System (MPDES) permit. Each authorization under the General Permit will be to a specified owner/operator for recreational suction dredge(s), to operate only in the area(s) specified in the authorization.

C. Sources Excluded from Coverage under this General Permit

1. The specific source applying for authorization appears unable to comply with [ARM 17.30.1341(4)(a)]:

- effluent limitations or other terms and conditions of the permit;
- water quality standards established pursuant to 75-5-301, MCA; or
- prohibition of discharges that the regional administrator has objected to in writing.

Specifically, discharges to receiving waters classified as A-1 or A-Closed will not be allowed due to the prohibition on increasing turbidity in these receiving waters, pursuant to ARM Title 17, Chapter 30, Subchapter 6.

2. The discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in the General Permit [ARM 17.30.1341(4)(b)].
3. A MPDES permit or authorization for the same operation has previously been denied or revoked [ARM 17.30.1341(4)(c)].
4. The discharge to be authorized under a general MPDES permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, et seq., MCA [ARM 17.30.1341(4)(d)].
5. The point source will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274 [ARM 17.30.1341(4)(e)].

6. The suction dredge has an intake diameter greater than four (4) inches.
7. The suction dredging operation includes the use of chemicals to recover metals, minerals or gemstones.
8. Suction dredging operations that dredge more than 50,000 cubic yards of ore per year.

D. Existing sources covered under the 2010 General Permit – continuing coverage.

The 2010 General Permit authorizations expire on March 31, 2105. The Department will reissue an authorization to an existing permittee to operate under the 2015 General Permit after the permittee submits a renewal request for continued coverage and the Department completes its review of the request. The renewal request must be submitted to the Department before the expiration date of the 2010 General Permit (March 31, 2015). The renewal request includes submittal of a complete application package consisting of:

- Notice of Intent (NOI) form; and
- Fee (includes renewal permit fee) as required under 75-5-516(12), MCA and ARM 17.30.201 (Schedule I.B.)(See NOI instructions for renewal fee amounts).

E. New sources seeking coverage under the 2015 General Permit

New dischargers seeking to obtain coverage under the General Permit must submit a complete application package, including:

- Notice of Intent (NOI) form; and
- Fee (includes new permit fee) as required under 75-5-516(12), MCA and ARM 17.30.201 (Schedule I.B).

The complete package must be submitted at least 30 days prior to the operation of the portable recreational suction dredge.

F. Termination of Permit Coverage

Permit authorizations may be terminated if the Department receives notice from the permittee that the suction dredging activity will not be continued. This notice must be signed and certified in accordance with the signatory requirements in Part III. L of the General Permit and all applicable fees must be paid. Alternatively, permittees may complete and submit to the Department a Request For Termination (RFT) form available at [www.deq.mt.gov/wqinfo/WPBForms/pdf/RTF.pdf](http://www.deq.mt.gov/wqinfo/WPBForms/pdf/RTF.pdf). Failure to submit a notice of termination shall result in accrual of annual fees until such notice is received by the Department.

In addition to the ability to request a termination, the owner or operator of a facility covered under this General Permit may request to be excluded from coverage under this General Permit by applying for and obtaining an individual MPDES permit pursuant to ARM Title 17, Chapter 30,

Subchapter 13. If an individual MPDES permit is issued to the owner or operator, coverage under this General Permit is terminated on the effective date of the final individual MPDES permit.

G. Transfer of Coverage

The Department may transfer a suction dredge authorization to a new owner or operator under the General Permit. To transfer a suction dredge authorization both the current owner and new owner must fill out and sign the Permit Transfer Notification form available on the Department's web site at <http://deq.mt.gov/wqinfo/WPBForms/Forms1.mcp>.



II. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

A. Effluent Limitations

1. No visible increase in turbidity allowed 10 stream widths downstream from the suction dredge operation.
2. No visible oil film caused by the suction dredge operation.

B. Self-Monitoring Requirements

The permittee is responsible for conducting the following monitoring, recordkeeping, and reporting during the life of their permit authorization:

1. The permittee must visually check the stream on a daily basis at the end of the mixing zone (10 stream widths downstream of the suction dredge). The stream width is to be determined by measuring the width of the stream at the suction dredge location.

The visual check must be conducted after the first half-hour of continuous operation to determine if a violation is occurring as defined under the effluent limitations. In addition to the daily observation, a visual check must be made whenever there is an obvious change in the turbidity from the suction dredging activity, or in the stream width at the dredge location, or a suspected spill or leak has occurred. If an increase in turbidity or suspended sediment is observed at the end of the mixing zone (10 stream widths downstream from the operating suction dredge), the operator must decrease or cease operation immediately until the turbidity is in compliance with the terms of this General Permit. If a spill or leak occurs, the operator must cease operating immediately until the source of the spill or leak is eliminated.

2. The permittee must maintain a daily record for each day of operation in each permitted stream location. Required information includes:
  - a. the date and time operated during each day,
  - b. visual observation of the turbidity in the receiving stream 10 stream widths downstream of the suction dredge,
  - c. visual oil film noted, and
  - d. any noted changes in the operation of the suction dredge or appearance of the receiving stream.
3. The permittee must maintain the daily records for a period of at least three years and make these records available to the Department upon request.
4. The daily records are considered a method for the permittee to ensure good operating practices. The permittee is required to submit the Suction Dredge Log to the

Department at the end of every operating season and no later than January 28<sup>th</sup> following the end of each calendar year.

C. Special Conditions

DEQ has determined that the Best Management Practices (BMPs) listed below, when properly implemented, are appropriate treatment methods for suction dredge activities to protect water quality [ARM 17.30.1345(1)].

1. Stream banks must not be mined or disturbed. No undercutting of stream banks that would cause caving or erosion of the banks is allowed. Dredging is only permitted within the existing wetted perimeter (waterline) in the active stream channel.
2. Motorized winches or other motorized equipment must not be used to move boulders, logs or other natural obstructions.
3. No wheeled or tracked equipment may be used in-stream while dredging.
4. No damming or diversions are authorized.
5. Dredging of concentrated silt and clay should be avoided. The permittee must use reasonable care to avoid dredging silt and clay materials that would result in a significant increase in turbidity and suspended sediment. Reasonable care includes moving the dredge to a new location or reducing the volume of effluent by limiting the operational speed of the suction dredge.
6. No refueling of suction dredges is allowed over open water.
7. The permittee is authorized to discharge from a suction dredge only during the time period specified in the confirmation letter.
8. The permittee is allowed to discharge wastewater from a recreational suction dredge only at the location(s) requested on the NOI form and identified in the confirmation letter. A copy of the confirmation letter must be kept with the General Permit at a location accessible from the suction dredging activity.

### III. STANDARD CONDITIONS

The permittee shall meet the following standard conditions of MPDES permits.

#### A. Duty to Comply

The permittee shall comply with all standard conditions in 40 CFR 122.41 and all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination; revocation and reissuance, or modification; or, for denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under the Act and rules adopted thereunder including limitations for toxic pollutants in ARM 17.30.1206; section 307(a) of the federal Clean Water Act; and, with standards for sewage sludge use or disposal established under section 405(d) of the Clean Water Act, within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

The Act provides that any person who violates a permit condition or limitation is subject to a civil penalty not to exceed \$25,000 per day for each violation. Any person who willfully or negligently violates 75-5-605, MCA including a permit condition or limitation is subject to criminal penalties not to exceed \$25,000 per day of violation, imprisonment for not more than one year, or both. In the case of a second or subsequent conviction for a willful or negligent violation, a person is subject to a fine of not more than \$50,000 per day of violation, imprisonment of not more than two years, or both.

The Act provides that any person who violates a permit condition or limitation may be assessed an administrative penalties by the department not to exceed \$10,000 per violation per day with the maximum penalty assessed not to exceed \$100,000 for any related series of violations.

#### B. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must first apply for coverage 180 days prior to permit expiration and obtain a new permit or authorization under the applicable general permit.

#### C. Need to Halt or Reduce Activity Not a Defense

It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.



D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

G. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

H. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information that the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

I. Inspection and Entry

The permittee shall allow the head of the Department, or an authorized representative, including an authorized contractor acting as a representative of the Department, upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

J. Monitoring and Records

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

2. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

3. Records Contents

Records of monitoring information must include:

- a) the date, exact place, and time of sampling or measurements;
- b) the individual(s) who performed the sampling or measurements;
- c) the date(s) analyses were performed;
- d) the individual(s) who performed the analyses;
- e) the analytical techniques or methods used; and,
- f) the results of such analyses.

4. Test Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR 503.8 or Subchapter N.

K. Falsification and Tampering

The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000, imprisonment for not more than six months, or both.

L. Signatory Requirement

All applications, reports or information submitted to the Department shall be signed and certified as required by ARM 17.30.1323.

M. Reporting Requirements

1. Planned Changes

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a) The alteration or addition to the permitted facility may meet one of the criteria for determining whether a facility is a new source under ARM 17.30.1340(2); or
- b) The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under ARM 17.30.1343(1)(a).

2. Anticipated Noncompliance

The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary or mandatory as required by ARM 17.30.1360 and the Act.

4. Monitoring Reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit and is subject to the following additional requirements:

- a) Monitoring results must be reported on a Discharge Monitoring Report (DMR) form;
- b) If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 using procedures specified in the permit for any pollutant for which an analytical method is not established by 40 CFR Part 136, or by another method required for an industry-specific waste stream under 40 CFR 503.8 or subchapter N, the results of such monitoring must be included in the calculation and reporting of the data submitted in the DMR; and,
- c) Calculations for all limitations that require averaging of measurements must use an arithmetic mean unless otherwise specified by the Department in the permit.



5. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

N. Twenty-Four Hour Reporting

The permittee shall report any noncompliance that might endanger health or the environment. Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:

- a) A description of the noncompliance and its cause;
- b) The period of noncompliance, including exact dates and times;
- c) The estimated time noncompliance is expected to continue if it has not been corrected; and,
- d) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following are included as information that must be reported within 24 hours under this provision:

- a) Any unanticipated bypass that exceeds any effluent limitation in the permit;
- b) Any upset that exceeds any effluent limitation in the permit; and,
- c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in this permit to be reported within 24 hours [see 40 CFR 122.44(g)].

The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Protection Bureau, by phone, (406) 444-3080. Written reports shall be submitted to the following address:

Montana Department of Environmental Quality  
Water Protection Bureau  
PO Box 200901  
Helena, Montana 59620-0901

O. Other Noncompliance-Reporting

The permittee shall report all instances of noncompliance not reported under Part III.M of this permit, at the time monitoring reports are submitted. The reports shall contain the information listed above for written submissions under "Reporting Requirements—Twenty-four Hour Reporting."

P. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information.

Q. Bypass

1. Bypass Not Exceeding Limitations

The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. Bypasses are not subject to the provisions under "Notice" and "Prohibition of Bypass" below.

2. Notice

Anticipated Bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

Unanticipated Bypass. The permittee shall submit notice of an unanticipated bypass as required under "Reporting Requirements—Twenty-four Hour Reporting" above.

3. Prohibition of Bypass

Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass, unless:

- a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- c) The permittee submitted notices as required under "Notice" above.

The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet these three conditions.

R. Upset

1. Effect of an upset

An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements outlined below under “Conditions Necessary for Demonstration of an Upset” below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Conditions Necessary for a Demonstration of Upset.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a) An upset occurred and that the permittee can identify the cause(s) of the upset;
- b) The permitted facility was at the time being properly operated;
- c) The permittee submitted notice of the upset as required under “Reporting Requirements—Twenty-four Hour Reporting” above and
- d) The permittee complied with any remedial measures required under “Duty to Mitigate” above.

3. Burden of proof

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

S. Fees

The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for the payment, the Department may impose an additional assessment computed at the rate established under ARM 17.30.201, and suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate or authorization for which the fee is required. The Department may lift suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this section. Suspensions are limited to one year, after which the permit will be terminated.



#### IV. DEFINITIONS AND ABBREVIATIONS

##### A. General Definitions and Abbreviations

“Act” means the Montana Water Quality Act, Title 75, Chapter 5, MCA.

“Arithmetic mean” or “arithmetic average” for any set of related values means the summation of the individual values divided by the number of individual values.

“Average monthly limitation” means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

“BOD<sub>5</sub>” means the five-day measure of pollutant parameter biochemical oxygen demand.

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

“CBOD<sub>5</sub>” means the five-day measure of pollutant parameter carbonaceous biochemical oxygen demand.

“CFR” means the Code of Federal Regulations.

“Clean Water Act” means the federal legislation at 33 USC 1251, et seq.

“Composite sample” means a sample composed of two or more discrete aliquots.

“Daily discharge” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

“Department” means the Montana Department of Environmental Quality (MDEQ). Established by 2-15-3501, MCA.

“Director” means the Director of the Montana Department of Environmental Quality.

“Discharge” when used without qualification means discharge of a pollutant.

“Discharge of a pollutant(s)” means any addition of any pollutant or combination of pollutants to state water from any point source. This definition includes additions of pollutants into waters of the state from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by the state, municipality, or other person which do not lead to a treatment works. This term does not

include an addition of pollutants by any indirect discharger, as defined in ARM 17.30.1304.

“EPA” or “USEPA” means the United States Environmental Protection Agency.

“Geometric mean” means the value obtained by taking the Nth root of the product of the measured values.

“Grab sample” means a sample that is taken from a waste stream on a one-time basis without consideration of flow rate of the effluent or without consideration for time.

“Instantaneous measurement”, for monitoring requirements, means a single reading, observation, or measurement.

“Maximum Daily Limit” means the highest allowable discharge of a pollutant during a calendar day. Expressed as units of mass, the daily discharge is cumulative mass discharged over the course of the day. Expressed as a concentration, it is the arithmetic average of all measurements taken that day.

“Minimum Level” (ML) of quantitation means the lowest level at which the entire analytical system gives a recognizable signal and acceptable calibration point for the analyte. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all method specific sample weights, volumes and processing step have been followed.

“Mixing zone” means an area established in a permit issued by the Department where water quality standards may be exceeded, subject to conditions that are imposed by the Department and that are consistent with rules adopted by the board

“Point Source” means any discernible, confined, or discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

“Pollutant” means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural wastes discharged into water. The terms "sewage," "industrial waste," and "other wastes" as defined in 75-5-103, MCA, are interpreted as having the same meaning as pollutant.

“Required Reporting Values” means the minimum level of quantification or detection that must be achieved in reporting all monitoring results required by this permit.



“Severe property damage” means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

“State Waters” means a body of water, irrigation system, or drainage system, either surface or underground. The term does not apply to: ponds or lagoons used solely for treating, transporting, or impounding pollutants; or, irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

“TIE” means a toxicity identification evaluation.

“TMDL” means the total maximum daily load limitation of a parameter, representing the estimated assimilative capacity for a water body before other designated uses are adversely affected. Mathematically, it is the sum of wasteload allocations for point sources, load allocations for non-point and natural background sources, and a margin of safety.

“TRE” means a toxicity reduction evaluation.

“TSS” means the pollutant parameter total suspended solids.

“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

“Whole Effluent Toxicity” (WET) is the total toxic effect of an effluent measured directly with a toxicity test.

“WET Permit Limit” is a water quality-based effluent limitation for WET that is used to trigger accelerated WET monitoring and TREs.

“Wet Permit Trigger” means a threshold level for WET in an NPDES permit that is used to trigger accelerated WET monitoring or a TREs when there is no reasonable potential for WET and no WET permit limits.

B. Specialized Definitions and Abbreviations

“Ephemeral Stream” means a stream or a part of a stream, which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and whose channel bottom is always above the local water table.



"Intermittent Stream" means a stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface run-off and groundwater discharge.

"Outfall" means the place where a point source discharges effluent into the receiving water. For each outfall, there typically is at least one monitoring location. Although the monitoring location might or might not be at the actual point of discharge, samples taken at the monitoring location should be representative of the discharge.

"Receiving ephemeral stream" means the ephemeral drainage and/or impoundment constructed in the ephemeral drainage, which receives the produced water discharge from the oil and gas activity.

"Maximum Allowable Concentration" means the maximum concentration that must not be exceeded for any parameter specified in the water quality analysis table.



Agency Use

NOI37 No.:

Date Rec'd

Amount Rec'd

Check No.

Rec'd By

FORM  
NOI37**Notice of Intent**  
**Suction Dredging General Permit**  
**MTG370000**

The Notice of Intent (NOI37) form is to be completed by the owner or operator of a portable suction dredging operation that is eligible for coverage under the Montana Department of Environmental Quality's (DEQ) Suction Dredging General Permit (SDGP). **Please read the attached instructions before completing this form.** You must print or type legibly; forms that are not legible, not complete, or unsigned will be returned. You must maintain a copy of the completed NOI37 form for your records.

**Section A - NOI37 Status (check one)**

- |                                       |                                 |
|---------------------------------------|---------------------------------|
| <input type="checkbox"/> New          | No prior NOI37 submitted        |
| <input type="checkbox"/> Resubmitted  | Permit Number M T G 37 _ _ _ _  |
| <input type="checkbox"/> Renewal      | Permit Number: M T G 37 _ _ _ _ |
| <input type="checkbox"/> Modification | Permit Number: M T G 37 _ _ _ _ |

**Section B - Activity Information** *(See instruction sheet):*

Name \_\_\_\_\_

Activity Location \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_ County \_\_\_\_\_

Township \_\_\_\_\_ Range \_\_\_\_\_ Quarter Section \_\_\_\_\_ ; OR

Latitude \_\_\_\_\_ Longitude \_\_\_\_\_

Is the facility located on Indian Lands? ☐ Yes ☐ No

**Section C - Applicant (Owner/Operator) Information**

Owner/Operator Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Applicant contact person (*name, title*) \_\_\_\_\_Phone Number (\_\_\_\_) \_\_\_\_\_ E-mail (*optional*) \_\_\_\_\_**Standard Industrial Classification (SIC) Codes**

The SIC Code for gold ores is provided in box 1. If other SIC codes are applicable, provide the SIC code which best reflects the industrial activity.

SIC Code		Description	SIC Code		Description
1	1041	Gold Ores	2		

**MAP:** Attach a topographic map of the area extending to at least one mile beyond property boundaries of the site or activity in Section B depicting the facility or activity boundaries and the receiving water.

**Section D - Outfall Location(s): Identify location and receiving water where suction dredging will take place** (Use Township, Range and Quarter Section or Latitude and Longitude).

Outfall Number	Township, Range and Quarter Section	Latitude	Longitude	Receiving Water	Receiving Water Width (feet)
001					



**Section E - Additional Information**

1. Specify suction dredge intake diameter size: \_\_\_\_\_ inches.
2. Determine if stream is classified in ARM 17.30.601-670 as A-1, A-Closed. See Sub-Chapter 6 - Surface Water Quality Standards and Procedures. Is stream classified A-1 or A-Closed? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Will chemicals be used? \_\_\_\_\_ Yes \_\_\_\_\_ No
4. For new sources (existing sources are not required to fill out). The applicant must contact the Montana Department of Fish, Wildlife and Parks (FWP) at 406-444-2449 to ensure fisheries will be protected at the proposed suction dredge location(s). If FWP determines that a seasonal restriction is required to protect fisheries, the applicant must include the seasonal restriction here:

Seasonal Restriction: \_\_\_\_\_

Date of Contact: \_\_\_\_\_

Name of Person Contacted: \_\_\_\_\_

**Section F - CERTIFICATION FOR ALL OWNER/OPERATORS**

All Applicants Must Complete the Following Certification:

I certify under penalty of law that this document and all attachments are accurate and true. I am aware that there are significant penalties for submitting false information; including the possibility of fine and imprisonment for knowing violations. [75-5-633, MCA].

Name (Type or Print)

Title (Type or Print)

Phone Number

Signature

Date Signed

## INSTRUCTIONS FOR Form NOI37 – Notice of Intent for Suction Dredging General Permit (MTG370000)

The Suction Dredging Notice of Intent Form (NOI37 form) is to be completed by the owner/operator of a suction dredge operation that is eligible for coverage under DEQ's *Suction Dredge General Permit (SDGP)*. SDGP documents and related forms are available on the DEQ website at: <http://www.deq.mt.gov> or from DEQ by calling (406) 444-3080.

You must provide all of the information requested in the NOI37 form to be complete, including submittal of specified fees and completed certification by the appropriate signatory. Please type or print legibly; applications that are not legible or are not complete will be returned. Responses must be self-explanatory and must not refer exclusively to attached maps, plans, or documents. You must maintain a copy of the SDGP and completed NOI37 Form for your records. Mail the completed NOI37 form and fee to:

Montana Department of Environmental Quality  
Water Protection Bureau  
PO Box 200901  
Helena, MT 59620-0901

\*\*\*\*\*

### SPECIFIC ITEM INSTRUCTIONS

#### **Section A – NOI37 Status**

##### **New**

Check new if this is the first NOI37 submission for this facility.

##### **Resubmitted**

If DEQ returned your NOI37 to you as deficient or incomplete check Resubmitted. If resubmitted multiple times and you were sent an invoice, include the resubmitted application fee. Include the permit number that DEQ assigned.

##### **Renewal**

For existing permit authorizations. Upon renewal of the SDGP (renewable on a 5-year basis), any owner/operator that wishes to continue coverage under this general permit must submit a NOI37 for renewal. Include the permit number.

##### **Modification**

If there is a change in the facility or site information, check Modification. Include the permit number.

Each of the options above requires a fee. A complete NOI37 includes payment of the appropriate fee. Fees are found in the Administrative Rules of Montana (ARM) 17.30.201 and 75-5-516(12), Montana Code Annotated (MCA). The application fee for a resident is \$25.00. The application fee for a non-resident is \$100.00. The annual fee for a Montana resident is \$25.00. The application fee for a non-resident is \$100.00. The following fees apply:

<u>NOI37 Status</u>	<u>Resident</u>	<u>Non-resident</u>
New	\$50.00	\$200.00
Resubmitted	\$25.00	\$100.00
Renewal	\$25.00	\$100.00
Modification	\$25.00	\$100.00

***Do not use this form to transfer permit coverage to a new owner or operator. For a permit transfer you must use Form PTN.***

#### **Section B – Activity Information**

Give the activity's official or legal name. The activity name means the, source, or physical site, from which pollutants or wastes are, or will be, collected, generated, stored, treated or discharged (disposal system). The activity may be public or privately owned property. Give the address or location of this activity and the most accurate geographic information

using township, range, and ¼ section or latitude and longitude. Geographic information may be obtained at <http://nris.state.mt.us>

The site location must describe the physical location using township, range, and ¼ section or longitude or township/range/ ¼ section. P.O. boxes are not acceptable. Locational sources include GPS, a USGS topographic map, and/or “Topofinder” from <http://nris.mt.gov/interactive.html>.

### **Section C – Applicant (Owner/Operator) Information**

Give the name, as it is legally referred to, of the person, business, or other entity that owns, operates, controls or supervises the site(s) described in Section B of this NOI37 form.

**The permit will be issued to the entity identified in this section (Section C).** The owner or operator assumes all liability for discharges from the site and compliance with the terms and conditions of the General Permit. If the owner or operator is other than an individual or government entity, it must be registered with the Montana Secretary of State’s office.

Complete the applicant contact person information as requested. Give the name, title, work phone number, and email address (optional) of a person who is thoroughly familiar with the operation of the facility or site activity or project and with the facts reported in this form, and who can be contacted by DEQ for additional information.

**Standard Industrial Classification (SIC) Codes** – The NOI37 lists the primary SIC code for gold mining. If there is another SIC code for another activity list that SIC code as a secondary four-digit SIC code that best describe the business of the owner/operator. A complete list of SIC Codes [and conversions from the newer North American Industry Classification System (NAICS)] can be obtained from the Internet at <http://www.census.gov/epcd/www/naics.html>, in paper form from the document entitled “Standard Industrial Classification Manual”, Office Management and Budget, 1987, or at <http://www.osha.gov/pls/imis/sicsearch.html>.

**Map** – Attach a topographic map of the area extending to at least one mile beyond the property boundaries. The map must be easily legible and include all of the elements described on the NOI37 form. NOI37 forms submitted with incomplete or illegible maps will be considered incomplete and returned with instructions to provide an appropriate map.

### **Section D – Outfall Location(s)**

Provide a list of all discharge locations (outfalls) and receiving water name. The applicant may specify up to five outfall locations. For renewals, use the outfall number(s) specified in the current authorization. For new projects list all outfalls starting with 001.

### **Section E – Additional Information**

Provide additional information as required.

### **Section F - Certification**

Certification must be completed by the applicant (owner/operator) responsible for the authorization as identified in Section C.



# MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

## FACT SHEET

### Portable Suction Dredge General Permit

FACILITY: Portable Suction Dredge Operations  
PERMIT NUMBER: MTG370000  
LOCATION: Statewide  
CONTACT: Applicant  
RECEIVING WATER: Statewide

#### I. Status of Permit

The Portable Suction Dredge General Permit (General Permit) was first issued and became effective on May 21, 1987. The General Permit has been reissued four times. The General Permit was last reissued on February 12, 2010; it expires on March 31, 2015 (2010 General Permit). The Montana Department of Environmental Quality (DEQ) proposes to renew the 2010 General Permit for another five-year term (2015 General Permit).

#### II. Coverage

##### A. Coverage Area

The General Permit applies to all areas of the State of Montana, except for Indian Reservations.

##### B. Description of Discharge and Discharging Activity

The General Permit applies to portable recreational suction dredge operations that discharge into waters of the state. A portable suction dredge operated under the General Permit must have an intake diameter size of four (4) inches or less [Administrative Rules of Montana (ARM) 17.30.1341(1)(e)]. Other suction dredge operations, such as commercial operations, or suction dredges with intake sizes greater than 4 inches in diameter, are not covered under the General Permit. These applicants must apply for an individual Montana Pollutant Discharge Elimination System (MPDES) permit. Each authorization under this General Permit will be to a specified owner/operator for recreational suction dredge(s), to operate only in the area(s) specified in the authorization.

Most portable suction dredges are used for recreation and are operated for a short time during summer months or on weekends. Portable suction dredges are mechanical devices that float on the stream surface and pump stream water and stream bed material through a suction dredge intake to a sluice box, from which gold or other precious metals are recovered. Unwanted gravels and other naturally occurring stream bottom material fall off the end of the sluice box and are redeposited back onto the stream bottom. Since the discharge consists of naturally occurring stream bottom material and no chemicals are allowed to be added to enhance gold recovery, there is no additional load of pollutants to the receiving stream. Oil and grease and fuel are also potential pollutants if the operating dredge has leaking seals or if fuel is spilled during refilling.

The 2010 General Permit limited turbidity and visible oil sheen in the receiving stream. No violation letters have been written to 2010 General Permit permittees.

### C. Regulatory Authority

Montana Code Annotated (MCA) Section 75-5-605(2) prohibits the discharge of sewage, industrial wastes or other wastes into state waters without a current permit from DEQ. Other wastes include sediment, sand, decayed wood, oil and grease, and all other substances that may pollute state waters [75-5-103(24), MCA]. Under this definition, water discharged from suction dredge activities is considered a waste and is subject to MPDES permitting.

Pursuant to ARM 17.30.1341, the Board of Environmental Review (BER) has authorized DEQ to issue general permits for suction dredge operations that use intakes no larger than four inches in diameter [17.30.1341(1)(e)].

### D. Existing sources covered under the 2010 General Permit – continuing coverage.

As of October 2014, there were 53 active recreational suction dredge permit authorizations. The 2010 General Permit authorizations expire on March 31, 2015. DEQ will reissue an authorization to an existing permittee to operate under the new 2015 General Permit after the permittee submits a renewal request for continued coverage and DEQ completes its review of the application [ARM 17.30.1341(4)]. The renewal request must be submitted to DEQ before the expiration date of the 2010 General Permit (March 31, 2015). The renewal request includes submittal of a complete application package consisting of:

- Notice of Intent (NOI) form; and
- Fee (includes renewal permit fee) as required under 75-5-516(12), MCA and ARM 17.30.201 (Schedule I.B.).

Upon receipt of an application package, DEQ will review the application. If DEQ does not find deficiencies during the review, DEQ will issue a confirmation letter. If DEQ finds deficiencies during the review, DEQ will contact the applicant for additional information necessary to ensure the application package meets requirements.



E. New sources seeking coverage under the new 2015 General Permit

New dischargers seeking to obtain coverage under the General Permit must submit a complete application package, including:

- Notice of Intent (NOI) form; and
- Fee (includes new permit fee) as required under 75-5-516(12), MCA and ARM 17.30.201 (Schedule I.B).

The complete package must be submitted at least 30 days prior to the operation of the portable recreational suction dredge.

Upon receipt of an application package, DEQ will review the application. If DEQ does not find deficiencies during the review, DEQ will issue a confirmation letter. If DEQ finds deficiencies during the review, DEQ will contact the applicant for additional information necessary to ensure the application package meets requirements.

F. Termination of Permit Coverage

Permit authorizations may be terminated if DEQ receives notice from the permittee that the suction dredging activity will not be continued. This notice must be signed and certified in accordance with the signatory requirements in Part III. L of the General Permit and all applicable fees must be paid. Alternatively, permittees may complete and submit to DEQ a Request For Termination (RFT) form available at [www.deq.mt.gov/wqinfo/WPBForms/pdf/RTF.pdf](http://www.deq.mt.gov/wqinfo/WPBForms/pdf/RTF.pdf). Failure to submit a notice of termination shall result in accrual of annual fees until such notice is received by DEQ.

In addition to the ability to request a termination, the owner or operator of a facility covered under this General Permit may request to be excluded from coverage under this General Permit by applying for and obtaining an individual MPDES permit pursuant to ARM Title 17, Chapter 30, Subchapter 13. If an individual MPDES permit is issued to the owner or operator, coverage under this General Permit is terminated on the effective date of the final individual MPDES permit.

G. Transfer of Coverage

DEQ may transfer a suction dredge authorization to a new owner or operator under the General Permit. To transfer a suction dredge authorization both the current owner and new owner must fill out and sign the Permit Transfer Notification form available on DEQ's web site at <http://deq.mt.gov/wqinfo/WPBForms/Forms1.mcp.x>.

III. Sources Excluded from Coverage Under this General Permit and Other Permitting Requirements

- A. DEQ may deny a Portable Suction Dredge General Permit application for discharge under the general provisions of ARM 17.30.1341(4) based on the conditions listed



below. If an applicant is unable to comply with the conditions listed below, they may apply for an individual MPDES suction dredging permit.

1. The specific source applying for authorization appears unable to comply with [ARM 17.30.1341(4)(a)]:

- effluent limitations or other terms and conditions of the permit;
- water quality standards established pursuant to 75-5-301, MCA; or
- prohibition of discharges that the regional administrator has objected to in writing.

Specifically, discharges to receiving waters classified as A-1 or A-Closed will not be allowed due to the prohibition on increasing turbidity in these receiving waters, pursuant to ARM Title 17, Chapter 30, Subchapter 6.

2. The discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in the General Permit [ARM 17.30.1341(4)(b)].
  3. An MPDES permit or authorization for the same operation has previously been denied or revoked [ARM 17.30.1341(4)(c)].
  4. The discharge to be authorized under a general MPDES permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, et seq., MCA [ARM 17.30.1341(4)(d)].
  5. The point source will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274 [ARM 17.30.1341(4)(e)].
  6. The suction dredge has an intake diameter greater than four (4) inches.
  7. The suction dredging operation includes the use of chemicals to recover metals, minerals or gemstones.
  8. Suction dredging operations that dredge more than 50,000 cubic yards of ore per year.
- B. A confirmation letter permitting suction dredging under the General Permit does not eliminate a permittee's obligation to obtain other necessary permits, including but not limited to:

- **Local Conservation Districts [310 Permit]** (Montana Natural Streambed and Land Preservation Act) - permit from the local conservation district(s) in the county(ies) where the discharge(s) will occur.
- **U.S. Corps of Engineers (Section 10 and 404 Permits)** - if dredging within specified areas of the Yellowstone, Kootenai, or Missouri Rivers, or if discharging material back into any stream, river, lake, pond, wetland, or other waters.
- **U.S. Forest Service (USFS)** (36 CFR 228 – Subpart A) – if the operator has a reasonable uncertainty as to the significance of the proposed suction dredging disturbance on USFS-managed lands, the operator is required to provide written notice to the District Ranger who will determine whether a Plan of Operation is required.
- **U.S. Bureau of Land Management (BLM)** (43 CFR 3809) – if dredging on BLM land, the operator needs to determine if the dredging could be considered more than casual use. Casual use is typically considered “no undue or unnecessary disturbance,” and is generally recognized by BLM to be triggered if the operator is required to obtain an MPDES permit. A Notice to BLM is required for larger projects and a Plan of Operations could be required.
- **Montana’s Department of Natural Resources (DNRC)** - if dredging on State School Trust Land, the operator must have an approved “*State of Montana Metalliferous Mineral or Gem Mining Lease*,” which requires a performance bond. Applications for a lease can be obtained from DNRC Trust Land Management Division, Minerals Management Bureau (MMB). The operator is required to submit a detailed mineral exploration and/or operating plan to MMB for environmental review, for any mineral extraction proposed within (1) the low water marks on waterways considered navigable by DNRC, and/or (2) waters that flow through or bound state school trust land.
- **U.S. Fish & Wildlife Service (FWS)** – The FWS is responsible for implementing the Endangered Species Act (ESA). Suction dredgers must avoid “illegal take” of federally threatened species, such as bull trout, in compliance with the ESA. Illegal take includes actions that have the potential to adversely affect bull trout or their designated critical habitat.
- **Other State Agencies** – if dredging on non-navigable waters located in areas owned by other state agencies, the operator must first contact the agency involved regarding their requirements.
- **DEQ** – If an applicant complies with the 2015 Suction Dredge General Permit authorization requirements for applicable suction dredges, they are not typically required to obtain any additional DEQ permits including the Water Protection Bureau’s Section 318 (Turbidity) or the Small Miners Exclusion Statement from the Hard Rock Mining Program for recreational suction dredging activities.



#### IV. Description of Receiving Waters

##### A. Description of Receiving Waters and Applicable Standards

The water quality standards under the Water Quality Act (WQA) apply to all state waters. Under the WQA, state waters are defined as any body of water, irrigation system or drainage system either on the surface or under ground [75-5-103(34), MCA]. The definition of state waters includes ephemeral and intermittent drainages, isolated ponds, lakes and other water bodies.

Suction dredge discharges are subject to surface water quality standards in Montana Surface Water Quality Standards and Procedures [ARM 17.30.601-670]. No suction dredging is allowed in A-Closed or A-1 waters because no increase above naturally occurring turbidity is allowed in these waters. Waters classified as B-1, B-2, B-3, C-1, C-2, C-3, or I allow an increase of either 5 or 10 nephelometric turbidity units (NTUs) above naturally occurring turbidity.

Discharges into any classified waters are not allowed an increase above naturally occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318, MCA), settleable solids, oils or floating solids, which will or are likely to create a nuisance or render the water harmful, detrimental or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish or other wildlife [ARM 17.30.621-629]. DEQ has determined that discharges that comply with the applicable turbidity limit will not violate the narrative sediment standard.

ARM 17.30.637(1)(b) requires that surface waters must be free from substances attributable to discharges that will create a visible oil film. This requirement is applicable to suction dredge activities.

Ephemeral streams are subject to ARM 17.30.635 and 17.30.637, but not to the specific water quality standards of ARM 17.30.620 through 17.30.629 [ARM 17.30.637(4)].

##### B. Effluent Characteristics

Pollutants in suction dredge discharge water include turbidity and suspended sediment. Oil and grease and petroleum fuel are also potential pollutants if the operating dredge has leaking seals or if fuel is spilled during refilling. These pollutants present a reasonable potential to exceed water quality standards.

#### V. Proposed Effluent Limitations and Special Conditions

Section 75-5-402, MCA, authorizes DEQ to issue, suspend, revoke, modify or deny a permit to discharge waste pursuant to rules adopted by the BER. These rules require that waste receive, as a minimum, treatment equivalent to the best practicable control technology currently available (BPCTCA) as defined in 40 CFR Subchapter N Effluent Limit Guidelines (ELGs), and the applicable surface water quality standards contained in ARM Title 17, Chapter 30, Subchapter 6.



#### A. Technology-Based Effluent Limitations

Large scale suction dredgers are regulated under 40 CFR 440, Subpart M (Gold Placer Mining); however, this regulation only impacts those dredgers that dredge more than 50,000 cubic yards of ore per year. Large scale suction dredgers that dredge more than 50,000 cubic yards of ore per year are not eligible to apply for the General Permit.

#### B. Proposed Water Quality-Based Effluent Limitations

40 CFR 122.44(d)(1) requires that permits include water quality-based limits that "achieve water quality standards established under section 303 of the Clean Water Act, including State narrative criteria for water quality." Turbidity, suspended sediment, oil and grease and other petroleum products such as gasoline are potential pollutants commonly associated with suction dredge discharges that have reasonable potential for impacting water quality standards.

DEQ determined that applicants must meet the following effluent limits:

1. Turbidity - No visible increase in turbidity allowed 10 stream widths downstream from the suction dredge operation.
2. Sediment - Discharges that comply with the applicable turbidity limitation are assumed to also comply with the narrative water quality standard for sediment.
3. Oil & Grease - No visible oil film is allowed on the receiving stream.

#### C. Special Conditions

DEQ has determined that the Best Management Practices (BMPs) listed below, when properly implemented, are appropriate treatment methods for suction dredge activities to protect water quality [ARM 17.30.1345(1)]:

1. Stream banks must not be mined or disturbed. No undercutting of stream banks that would cause caving or erosion of the banks is allowed. Dredging is only permitted within the existing wetted perimeter (waterline) in the active stream channel.
2. Motorized winches or other motorized equipment must not be used to move boulders, logs or other natural obstructions.
3. No wheeled or tracked equipment may be used in-stream while dredging.
4. No damming or diversions are authorized.
5. Dredging of concentrated silt and clay should be avoided. The permittee must use reasonable care to avoid dredging silt and clay materials that would result in a significant increase in turbidity and suspended sediment. Reasonable care includes moving the dredge to a new location or reducing the volume of effluent by limiting the operational speed of the suction dredge.
6. No refueling of suction dredges is allowed over open water.

7. The permittee is authorized to discharge from a suction dredge only during the time period specified in the confirmation letter.
8. The permittee is allowed to discharge wastewater from a recreational suction dredge only at the location(s) requested on the NOI form and identified in the confirmation letter. A copy of the confirmation letter must be kept with the General Permit at a location accessible from the suction dredging activity.

VI. Final Effluent Limitations

- A. Turbidity - No visible increase in turbidity allowed 10 stream widths downstream from the suction dredge operation.
- B. Oil and grease - No discharge of visible oil film is allowed on the receiving stream.

VII. Monitoring and Reporting Requirements

The permittee is responsible for conducting the following monitoring, recordkeeping, and reporting during the life of their permit authorization:

- A. The permittee must visually check the stream on a daily basis at the end of the mixing zone (10 stream widths downstream of the suction dredge). The stream width is to be determined by the current width of the stream at the suction dredge location.

The visual check must be conducted after the first half-hour of continuous operation to determine if a violation is occurring as defined under the effluent limitations. In addition to the daily observation, a visual check must be made whenever there is an obvious change in the turbidity from the suction dredging activity, or in the stream width at the dredge location, or a suspected spill or leak has occurred. If an increase in turbidity or suspended sediment is observed at the end of the mixing zone (10 stream widths downstream from the operating suction dredge), the operator must decrease or cease operation immediately until the turbidity is in compliance with the terms of this General Permit.

- B. The permittee must maintain a daily record on the Suction Dredge Log Form (see Attachment I) or equivalent, for each day of operation in each permitted stream location. Required information includes:
  1. the date and time operated during each day,
  2. visual observation of the turbidity in the receiving stream 10 stream widths downstream of the suction dredge,
  3. visual oil film noted, and
  4. any noted changes in the operation of the suction dredge or appearance of the receiving stream.
- C. The permittee must maintain the daily records for a period of at least three years and make these records available to DEQ upon request.



- D. The daily records are considered a method for the permittee to ensure good operating practices as well to demonstrate compliance with the effluent limitations. The permittee is required to submit the Suction Dredge Log to DEQ at the end of every operating season, and no later than January 28<sup>th</sup> following the end of each calendar year.

#### VIII. Mixing Zone

The mixing zone is established for turbidity and suspended sediment based on ARM 17.30.516(4). The length of the mixing zone may not extend downstream from the discharge location more than a distance of 10 times the stream width.

The stream width should be the actual width of the stream, measured at the discharge location. For example, if the stream width at the location of the suction dredge is 10 feet, the length of the mixing zone is 100 feet and the turbidity limit cannot exceed background turbidity 100 feet downstream from the suction dredge operation.

#### IX. Nondegradation

DEQ has determined that recreational suction dredging operations will result in nonsignificant changes in water quality and are not required to undergo review under the provisions of Montana's Nondegradation Policy (75-5-303, MCA) because: 1) there is low potential for harm to human health or the environment, 2) the quantity and strength of the pollutant (turbidity and suspended sediment) is low and controlled in the confirmation letter and permit, 3) suction dredge activities are generally short-term, and, 4) turbidity and suspended sediment generated from suction dredge activities is not persistent in the environment [75-5-301(5)(c), MCA] [ARM 17.30.715(3)].

#### X. Information Sources

Montana Water Quality Act, MCA 75-5-101, *et. seq.*

ARM Title 17, Chapter 30:

Subchapter 2 – Permit Application, Degradation Authorization, and Annual Fees

Subchapter 5 - Mixing Zones in Surface and Ground Water.

Subchapter 6 - Surface Water Quality Standards.

Subchapter 7 - Nondegradation of Water Quality.

Subchapter 13 - Montana Pollutant Discharge Elimination System (MPDES) Standards.

EPA. 1999. Impact of suction dredging on water quality, benthic habitat, and biota in the Fortymile River, Resurrection Creek and Chatanika River, Alaska.  
[www.akmining.com/mine/1999epa.htm](http://www.akmining.com/mine/1999epa.htm)

EPA. 2001. Fact Sheet: Alaskan Small Suction Dredge Miners. December 2001.

Thomas. V.G. 1985. Experimentally Determined Impacts of a Small, Suction Gold dredge on a Montana Stream. North American Journal of Fisheries Management. 5: 480-488.



# Attachment I

Suction Dredge Log for Discharge Permit #MTG37 \_\_\_\_\_ Month, Year \_\_\_\_\_

Name of Stream/Stream Segment Worked: \_\_\_\_\_

Day	Operating Time Start/Stop	Total Hours Operational	Visible Turbidity Increase? <sup>(1)</sup> (Yes/No)	Visible Oil Film? <sup>(2)</sup> (Yes/No)	Observer Name or Initials
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
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27					
28					
29					
30					
31					

**Notes:** (1) If a visible increase in turbidity 10 stream widths downstream of the suction dredge is observed, operation of the dredge must decrease or cease. Operator should note actions taken to get into compliance. (2) If visible oil film noted, operator should note actions taken to prevent further release of oil & grease.

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

Name \_\_\_\_\_ Telephone \_\_\_\_\_ Address \_\_\_\_\_

Signature \_\_\_\_\_